

Before the
Federal Communications Commission

Washington, DC 20554

In the Matter of)	
)	
Improving Public Safety Communications in the)	
800 MHz Band)	
)	WT Docket No. 02-55
Consolidating the 900 MHz Industrial/Land)	
Transportation and Business Pool Channels)	
To: The Commission		

PETITION FOR CLARIFICATION OF
AMERICAN ELECTRIC POWER COMPANY, INC.

American Electric Power Company, Inc
1 Riverside Plaza
Columbus, OH 43215
+1 614 716 1000

By: /s/ David B. Trego
David B. Trego
Vice President, Telecommunications
American Electric Power Service Corp.

/s/ Jason D. Griffith
Jason D. Griffith
Director, Telecommunications Engineering
American Electric Power Service Corp.

21 December 2004

TABLE OF CONTENTS

	Page
Table of contents	ii
Summary	iii
I. Introduction	2
II. Discussion	3
A. Identifying B/ILT Channels Vacated by Nextel	4
B. Availability of Vacated Channels	5
C. New Public Safety/CII License Applications for Vacated Channels Must Adhere to Existing Rules	5
D. Construction and Loading Requirements for New Licenses in Vacated Spectrum	6
E. Nextel-Vacated Channels Obtained by Public Safety Entities Must Not Be Assignable to Non-Public Safety Eligibles	6
F. Involuntary Relocation of Licensees from Channels 121-150 is Unnecessarily Disruptive	7
III. Conclusion	7

SUMMARY

On 6 August 2004, the Commission released a Report and Order (“R&O”), subsequently published in the Federal Register on 22 November 2004, that is intended to address interference to public safety communications systems operating between 806-824/851-869 MHz. While American Electric Power (AEP) believes that the R&O generally draws a fair balance between the various interests at stake, it urges certain clarification on the implementation issues set forth below.

The area of most concern to AEP regards the five-year exclusive access that will be granted to public safety to those channels vacated by Nextel in the interleaved portion of the 800 MHz band. AEP appreciates the recognition the Commission gave the needs of Critical Infrastructure Industry (CII) entities by allowing such entities to share the final two years of exclusive access with public safety. However, to better insure the practical value of this exclusive period, AEP urges the Commission to make clear the application of its existing rules regarding Business and Industrial/Land Transportation (B/ILT) spectrum vacated by Nextel, so the R&O is not misinterpreted in implementation. Such misinterpretation of the R&O could make 800 MHz spectrum unduly difficult for CII entities to obtain during and after the period of exclusive public safety eligibility for these channels. Furthermore, AEP requests that the Commission establish a workable mechanism for these vacated channels to be identified over the long term and to specify policies and procedures for the licensing of these channels that will ensure that the critical needs of both public safety and CII entities such as AEP will be met.

AEP is concerned that the rules granting public safety entities access to B/ILT channels could be used to improperly encumber a large amount of Nextel-vacated B/ILT spectrum for an indeterminate amount of time. Continued application of the current 800 MHz B/ILT licensing

rules should, however, address most of these concerns. Specifically, Nextel-vacated B/ILT channels should be available to public safety during this period on a first-come, first-served basis and any resulting licenses should be subject to all of the engineering, loading, and construction requirements applied to B/ILT channels prior to the R&O becoming effective. Also, Nextel-vacated channels obtained by public safety entities should not be transferable to non-public safety entities. Furthermore, CII entities should be afforded continued access to B/ILT channels outside of the license contours vacated by Nextel as well as channels within those contours to the extent not derived from channels vacated by Nextel. To this end, CII entities should continue to be allowed to apply short-space criteria described in 47CFR90.621(b)(4) to locate new stations between 88 and 113 kilometers (55 and 70 miles) from the Nextel vacated channels.

Additionally, AEP agrees with Nextel and others that the involuntary relocation of licensees out of 800 MHz channels 121-150 is disruptive and unnecessary.

Before the
Federal Communications Commission

Washington, DC 20554

In the Matter of)	
)	
Improving Public Safety Communications in the)	
800 MHz Band)	
)	WT Docket No. 02-55
Consolidating the 900 MHz Industrial/Land)	
Transportation and Business Pool Channels)	

To: The Commission

PETITION FOR CLARIFICATION OF
AMERICAN ELECTRIC POWER COMPANY, INC.

American Electric Power Company, Inc., American Electric Power Service Corporation, and their affiliated operating companies (collectively “American Electric Power” or “AEP”) respectfully submit the following petition for clarification regarding the Commission’s recent Report and Order (R&O) in the above-captioned docket. American Electric Power seeks clarification on issues regarding how public safety/CII entities will be granted access to Business and Industrial/Land Transportation (B/ILT) channels in the interleaved 800 MHz spectrum during designated periods of exclusive access. AEP also asks the Commission to not require the involuntary relocation of incumbents from channels 121-150 of the 800 MHz General Category Pool in the course of implementing rebanding at 800 MHz.

I. Introduction

American Electric Power Company, Inc. is an electric utility holding company registered under the Public Utility Holding Company Act of 1935 (“PUHCA”) and one of the largest energy providers in the United States. Among its principal subsidiaries are eleven regulated operating companies that provide generation, transmission, and distribution of electricity to parts of eleven states. Additionally, American Electric Power Service Corporation, another wholly owned subsidiary, provides certain centralized services to AEP-affiliated companies as provided for by PUHCA. The American Electric Power System has generating capacity exceeding 36,000 Megawatts and utilizes some 39,000 miles of transmission lines and 210,000 miles of distribution lines to deliver energy to its 5 million-plus customers. To safely, reliably, and efficiently coordinate System operations, AEP operates an extensive 800 MHz trunked radio network that provides wireless communications to its entire 197,000 square mile service territory.

On 6 August 2004, the Commission released its *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*¹ (“R&O”) in this proceeding to address interference to public safety (and other) communications systems operating in the 800 MHz private land mobile radio service (PLMS). The interference experienced is mainly due to the location of cellular Commercial Mobile Radio Service (CMRS) providers in the same and adjacent 800 MHz spectrum. Through this R&O, the Commission seeks to eliminate this interference as well as provide additional spectrum to public safety entities by reorganizing the 800 MHz band by separating PLMS operations from the offending cellular operations. Among other actions, the Commission is moving the spectrum allocations of Nextel Communications

¹ In the Matter of Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket 02-55, 19 FCC Rcd 14969 (2004).

Inc. (Nextel), an Enhanced Specialized Mobile Radio (ESMR) cellular carrier and primary source of interference, away from those of Public Safety, Business, and Industrial/Land Transportation (PS and B/ILT) and non-cellular Specialized Mobile Radio (SMR) licensees in the 800 MHz band. In relocating Nextel, the Commission is allowing public safety a three-year period of exclusive access to B/ILT channels formally held by Nextel. Following this period, there will be an additional two-year period of exclusive access to B/ILT channels that will be shared between public safety and Critical Infrastructure Industry (CII) licensees.

In this Petition for Clarification, AEP is asking the Commission to clarify and affirm the rules surrounding the application for and granting of licenses related to these B/ILT channels formally held by Nextel, especially those made available to public safety and CII entities after rebanding is complete. AEP believes such clarification is necessary to keep the rebanding process moving as well as to ensure spectrum is allocated fairly among those who have a critical need for it.

II. Discussion

While the R&O document speaks of granting public safety access to the Nextel-vacated channels² in several locations, few specific rules are given as to how licenses for this spectrum are to be applied for and how they will be granted. AEP takes this to mean the Commission intends for the existing regulations covering PLMR channels to address this issue. AEP urges however, that Commission clarify this interpretation, especially with regard to the specific issues set forth in this petition.

² For the purposes of this filing, “Nextel-vacated channels” shall be taken to mean those channels currently held by Nextel in the interleaved portion of the 800 MHz band that will not be used to relocate incumbents out of the General Category portion of the band. *i.e.*, those channels freed up for access by public safety and CII during the exclusivity periods.

A. Identifying B/ILT Channels Vacated by Nextel

The first specific issue that AEP would like to bring to the Commission's attention is the practical matter of identifying those Nextel-vacated channels that will be held for exclusive access of public safety and later, CII licensees. Today, identifying interleaved channels (and associated contours) occupied by Nextel is a straightforward process; one can perform a variety of searches in the Commission's Universal Licensing System (ULS) and obtain the operating parameters for the various Nextel stations operating on those channels. However, once rebanding starts, Nextel will presumably start canceling licenses for interleaved channels, a situation in which it may be difficult to identify channels as public safety/CII-designated spectrum. Making matters even more difficult, it is possible Nextel could start deleting interleaved channels from licenses that will remain in ULS. Those channels will be difficult, if not impossible, to find as they are removed from the Commission's ULS records. (Unlike canceled licenses, the ULS cannot be searched for channels previously deleted from active licenses.) AEP urges the Commission to specify a plan as to how the Nextel-vacated channels will be identified throughout the five-year duration of the public safety and CII exclusivity periods. The Commission could create a searchable "snapshot" database of Nextel licenses as of the effective date of the R&O or, as Shulman Rogers suggests³, the Commission could create "phantom licenses" in the ULS as placeholders to be removed after the exemption periods expire.

It is important that some such set of records of Nextel-vacated channels be maintained because in some regions of the country, some B/ILT channels will remain available for licensing outside the contours defined by Nextel's existing licenses. Also non-Nextel B/ILT licensees may discontinue operations and consequently cancel their licenses during the public safety exclusivity

³ *Comments* of Shulman, Rogers, Gandal, Pordy, & Ecker, P.A., WT Docket No. 02-55, 8 November 2004 at p. 14.

period. These channels are not included in the public safety carve out, and thus are not made available to public safety. Furthermore, the R&O does not appear to preclude the short spacing of new stations with the Nextel-vacated channels under 47CFR90.621(b)(4). For all of these reasons, clearly identifying which channels have been vacated by Nextel will be crucial for implementing both the licensing of these channels and other channels not covered in the Commission's Order.

B. Availability of Nextel-Vacated Channels

While the R&O grants public safety and CII exclusive access periods for B/ILT channels that Nextel vacates, it does not specify the licensing scheme the Commission intends to employ in allocating this spectrum. AEP takes this to mean that site-by-site licensing on a first-come, first-served basis will continue to be method under which licenses for these channels will be made available. AEP believes that such a scheme continues to be in the public interest as the best way to address the ever-changing needs of PLMS licensees. Furthermore, public safety regional planning for these channels is not an appropriate exercise, as the varying availability of individual B/ILT channels in different geographic regions would greatly complicate the process which itself is of limited value due to the relatively short term of the exclusivity periods.

C. New Public Safety/CII License Applications for Vacated Channels Must Adhere to Existing Rules

As public safety/CII eligibles apply for new licenses in the Nextel-vacated spectrum, it is important that any such licenses granted be compatible with existing nearby co-channel licenses. To this end, it is AEP's interpretation of the R&O that public safety/CII will create entirely new licenses based on existing B/ILT licensing rules rather than "inherit" contours from the existing Nextel licenses. Given that it is highly unlikely that a public safety agency/CII entity's future

operating parameters will match those of Nextel stations today, new licenses need to be coordinated accordingly. Some of the small footprint contours Nextel has (in some cases improperly) licensed for B/ILT channels are not appropriate for high-site type of radio system that most public safety/CII entities employ. Given the difference in system architectures and the widely varying nature of B/ILT licenses that Nextel holds, it is essential that public safety/CII applicants perform frequency coordination and file new license applications in the manner that has been traditionally employed on the 800 MHz PLMR bands. Such action will protect both the applicant and incumbent B/ILT licensees from encroachment of neighboring licensees and the resulting co-channel interference.

D. Construction Requirements for New Licenses in Vacated Spectrum

Since new licenses will be granted to public safety/CII entities in a given region only after rebanding for that planning region is complete, licensees of Nextel-vacated spectrum should be held to the construction requirements that existing PLMS licensees are held to⁴. Specifically, all stations utilizing Nextel-vacated spectrum should be placed into service within one year of a license grant. Channels not constructed within one year of being authorized by the Commission should be made available to other public safety or CII entities; this is especially important before the exclusivity periods expire. The public safety/CII exclusivity periods should not be seen as an opportunity for licensees to “load up” on spectrum and hold on to it indefinitely.

E. Nextel-Vacated Channels Obtained by Public Safety Entities Must Not Be Assignable to Non-Public Safety Eligibles

In order to discourage speculative licensing of Nextel-vacated channels, public safety entities which obtain licenses for B/ILT spectrum vacated by Nextel should not be allowed to

⁴ See 47 CFR §90.155.

convert those licenses to CMRS licenses nor assign those licenses to non-public safety entities. Such requirement is consistent with the existing treatment of licenses for channels out of the 800 MHz public safety pools as well as the intent of the R&O. Likewise, CII entities shall be bound by 47CFR90.621(e)(1)(ii) and not be allowed to request authorization for commercial use of Nextel-vacated channels for five years after the initial license grant.

F. Involuntary Relocation of Licensees from Channels 121-150 is Unnecessarily Disruptive

As included in Nextel's *ex parte* presentations⁵ and reaffirmed by ITA⁶, AEP agrees that retuning non-CII B/ILT and SMR incumbents out of the General Category channels not needed for NPSPAC relocation is unnecessary. Relocating these incumbents to the interleaved channels will merely consume other channels that public safety and CII entities will enjoy periods of exclusive access for, so the net result is that the number of channels available to these entities will not change. On the other hand, retuning these entities has operational impacts to the licensees involved in addition to adding complexity and financial costs to the rebanding process. AEP sees no reason for the parties involved in rebanding to incur these costs when no substantial benefit is anticipated and asks the Commission to clarify the R&O on this point.

III. Conclusion

AEP applauds the efforts of the Commission to provide an interference-free environment for 800 MHz PLMR licensees as well as provide additional spectrum to America's first-responders. However, AEP urges that greater clarification as to how the process will work is required. Otherwise, some of these issues may unnecessarily become distractive points of contention during rebanding. Furthermore, AEP does not want the rebanding process to

⁵ *Notice of Ex Parte Presentation* of Nextel Communications, WT Docket 02-55, 16 September 2004 at p. 2 and *Notice of Ex Parte Presentation* of Nextel Communications, WT Docket 02-55, 21 September 2004.

⁶ *Comments* of Industrial Telecommunications Association, Inc., WT Docket 02-55, 2 December 2004 at pp. 9-10.

improperly become a “landgrab” opportunity by those who do not have a critical need for spectrum. Therefore, AEP respectfully asks the Commission to clarify the R&O on the points of identifying and licensing of Nextel-vacated spectrum and allowing incumbent licensees of channels 121-150 to retain their current licenses in the 800 MHz band.

Respectfully Submitted,

American Electric Power Company, Inc.
1 Riverside Plaza
Columbus, OH 43215
+1 614 716 3568

By:

/s/ David B. Trego

David B. Trego
Vice President, Telecommunications
American Electric Power Service Corporation

/s/ Jason D. Griffith

Jason D. Griffith
Director, Telecommunications Engineering
American Electric Power Service Corporation